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OFFICE OF PETITIONS

Patentee Rogers et al.
Patent No. 6,349,667
Issue Date February 26, 2002
Title Location Marker

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

2012 AUG 16 PM 12:22

Re-Filing of Petition filed July 13

Sir:

Herewith the patentee refiles the petition that was filed by facsimile on July 13. The petition itself is 36 pages (not including the one page credit card payment form, which is today not being resubmitted).

Patentee also submits herewith the fax confirmation pages from July 13. As can be seen from the fax confirmation pages, a total of 37 sheets were faxed and received.

In addition, patentee received an erroneous notification from the finance branch about a double payment of the fee. This notification is also attached, and it can be seen that at least 8 pages were received.

However, PAIR shows only 5 pages. Therefore patentee requests that the entire 37 page submission be accorded a filing date of July 13, 2012, and be favorably considered. Please contact the patentee's undersigned attorney at 212-519-5143 if there are any further questions on this matter.

Respectfully submitted,

Paul E. Szabo
Reg. No. 30,429
Attorney for Applicant
Kane Kessler, P.C.
1350 Avenue of the Americas
New York, NY 10019
(212) 519-5143

Dated: August 13, 2012

#357060.1

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

RECEIVED

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

AUG 21 2012

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,349,667

Application Number: 09/407,651

Issue Date: February 26, 2002

Filing Date: September 28, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original issue date _____;
original application number _____,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____.

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300

July 13, 2012

Date


Signature

Paul E. Szabo

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input checked="" type="checkbox"/> \$ 2,850	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 2,850

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 700

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____☐ Please charge Deposit Account No. _____ the sum of \$ _____☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 50-0908

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. _____

OR

☒ Send refund check

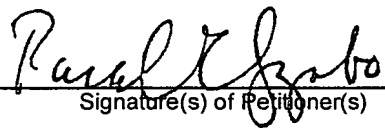
WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



 Signature(s) of Petitioner(s)

July 13, 2012

Date

Paul S. Szabo

Typed or printed name(s)

30,429

Registration Number, if applicable

Kane Kessler, P.C., 1350 Avenue of the Americas

Address

212-519-5143

Telephone Number

New York, NY 10019

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☒ Other: Petition, Declaration of Rene Negron, Exhibits

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."


Signature

July 13, 2012

Date

Paul E. Szabo

Type or printed name

30,429

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached petition paperwork.

(Please attach additional sheets if additional space is needed)

In the United States Patent and Trademark Office

Patentee Rogers et al.
Patent No. 6,349,667
Issue Date February 26, 2002
Title Location Marker

RECEIVED
AUG 21 2012
OFFICE OF PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition Under 35 CFR 1.378(b) To Reinstate Patent

Sir:

Safariland LLC, owner of US Patent No. 6,349,667, through its undersigned counsel, hereby petitions for reinstatement of US Patent No. 6,349,667 which is currently listed as expired for failure to pay the eighth year maintenance fee.

This petition is brought under 35 CFR 1.378(b) which authorizes petitions for reinstatement of a patent that expired because of an unavoidable failure to pay a maintenance fee. The standard is a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee was paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

This petition is based on the fact that outside counsel, who had obtained the patent and who had paid the first maintenance fee, unilaterally turned the patent back to the owner for handling of the second maintenance fee.

Personnel of the owner, who had no docketing program and no experience at paying maintenance fees themselves, were unable to set up payment reminders. Years later, after subsequent personnel changes and two software system changes, the error was finally discovered.

Specifically, the outside law firm, Nelson & Roediger, had prosecuted and obtained this patent, as well as three other patents, for a predecessor company of Safariland, Evi-Paq. (See attached Declaration of Rene Negron, at Paragraph 9.) Evi-Paq was then merged into (or purchased by) Armor Forensics Holdings, which was a company that was an agglomerator of smaller companies in the forensics area. Subsequently, Armor Forensics Holdings was merged into Safariland. (Negron Declaration, Para. 6)

Nelson & Roediger at one point decided it was no longer profitable to handle the maintenance fee work for these four patents, which were the only ones it had for Safariland. (Negron Declaration, Para. 9) So it turned that responsibility over to the company via an email to the company's paralegal, Ms. Leslie Carzoli. (Negron Declaration, Para. 9) Ms. Carzoli did not have an IP docketing program to use. (Negron Declaration, Para. 10) Nelson & Roediger apparently did not contact any attorney at Safariland, and apparently did not seek permission of any kind for this transfer, but rather placed this responsibility, unilaterally, on the paralegal. It gave her some dates that had to be met. No reference was made to how to actually pay the fees, etc. (Negron Declaration, Para. 9)

These facts are evidenced in the attached Declaration of Mr. Rene Negron, the current IP paralegal for the patent owner who discovered the error. Mr. Negron's Declaration shows that the error was uncovered in about April of 2012 (Negron Declaration, Para. 14) and, since then, working diligently with outside counsel (undersigned), this Petition was prepared and filed.

Submitted with this petition are the following fees:

The maintenance fee in the amount of \$2,850.

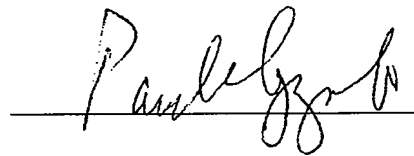
Surcharge in the amount of \$700.

Total of \$3,550.

Please charge any additional fees required (or credit any overpayments) to the undersigned's Deposit Account No. 50-0908.

From these facts, it is clear that reasonable care was taken to ensure that the fee would be paid timely. Under these circumstances, the supposed "failure" to pay the fee was unavoidable; the patent owner's actions meet the standard under 37 CFR 1.378(b) for reinstatement of the patent; and the patent should therefore be reinstated.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paul E. Szabo", is written over a horizontal line.

Paul E. Szabo
Reg. No. 30,429
Attorney for Applicant
Kane Kessler, P.C.
1350 Avenue of the Americas
New York, NY 10019
(212) 519-5143

Dated: July 12, 2012

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In the United States Patent and Trademark Office

Patentee Rogers et al.

Patent No. 6,349,667

Issue Date February 26, 2002

Title Location Marker

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Declaration of Rene Negron

- 1) My name is Rene Negron. I am the IP Paralegal for Safariland LLC ("Safariland").
- 2) As part of my work I oversee the patent maintenance fee work for Safariland's patent portfolio. This work includes working with outside counsel who are handling some of the issued patents, as well as handing some issued patents internally. I am familiar with the requirements of and process for payment of US patent maintenance fees.
- 3) Safariland has no in-house patent attorneys or agents, and all applications are filed and patent obtained by outside counsel. Up until the last few years, when the work was consolidated in Kane Kessler, P.C., as many as a dozen or more firms were used. (Safariland was formed by agglomerating a large number of smaller companies, each of which had

and kept its own outside patent counsel.) Until very recently, outside counsel handled all maintenance fee work for the patents they obtained, including patents obtained for Armor Holdings Forensics and Evi-Paq). This procedure generally worked well.

- 4) One patent of Safariland is US Patent No. 6,349,667 ("the '667 patent", copy attached as Exhibit A), issued February 26, 2002, which is the subject of this petition.
- 5) The '667 patent was originally obtained in 2002 for a company called R & P Enterprises d/b/a EVI-PAQ, by an outside law firm called Nelson & Roediger.
- 6) This company was purchased in 2003 by a predecessor of Safariland, specifically, Armor Holdings Forensics. That company was merged into Safariland as recorded in January 2009 at Reel 022127, frame 0572 (see attached Assignment Record for this patent Exhibit B).
- 7) Nelson & Roediger handled payment for the first USPTO maintenance fee for the '667 patent, which was paid on August 26, 2005. (Exhibit C)
- 8) The second maintenance fee for the '667 patent was due beginning on February 26, 2009, with a grace period until February 26, 2010. This is the fee payment that was missed.
- 9) Previously, however, for a group of four patents, including the '667 patent, the outside law firm (Nelson & Roediger) who had obtained those patents decided it no longer wanted to do the maintenance fee work. See attached email Exhibit D by which the firm unilaterally decided not to do the work any longer. This was in June, 2007, after the first maintenance fee was paid on the 667 patent and before the second one was due.

- 10) Safariland personnel had never before handled maintenance fees internally, instead relying on outside counsel. In this case, Safariland personnel looked to the only means they had for handling IP-related things at the time, which was a program called Serengeti. This was done by a Ms. Leslie Carzoli who did not have specific IP training and was not employed to work with only IP but rather legal in general. In the end the use of Serengeti turned out to be a mistake, a failure in this case. Serengeti was a time and billing program that was used for handling payment of invoices from vendors including outside counsel. However, Serengeti was not a docketing program, and did not have the capability to compute dates, such as maintenance fee due dates, and was generally not set up to handle such matters.
- 11) Safariland used this Serengeti program up until about mid-2009, primarily for keeping track of invoices from vendors including outside counsel. Attached as Exhibit E is a printout of the Serengeti record for the '667 patent (the Serengeti database, though no longer used, is still available to me as a read-only program). It appears that when the '667 patent was issued in 2002, the existence of the patent was put into the Serengeti database. The system obviously did not docket the maintenance fee due dates. I believe that this is when the dates were lost. It appears that the only date that was entered was the expiration date of the patent.
- 12) Safariland later transitioned to another system, more closely geared towards patent record-keeping, KSS TechTrac. Specifically, there was a large data migration from Serengeti to KSS that took place in the time period February 2009 through June 2009. It appears that information on the '667 patent was transferred, but as noted, this information did not include maintenance fee payment dates. The KSS

database is gone now, and so no information can today be retrieved from it.

- 13) During this time period Leslie Carzoli left the company, and I started work as IP Paralegal in late 2008. I was the first IP-trained paralegal that Safariland employed, and was the first paralegal who devoted their time solely to IP.
- 14) Then Safariland switched again from KSS to a new database, CPI. There was a large data migration involved, that took place in the time period October 2011 through March 2012 (a few months ago). CPI, a well-known patent annuity and docketing system, pulled the data from KSS. CPI noted this patent (as well as the other three that were received from the Roediger firm) as having no fees due. I checked and found out in April, 2012 that all four patents were expired. I checked with company personnel to see if that had been intended, and found out 'no'. Therefore, so I contacted current outside counsel Kane Kessler, P.C. to instruct them to revive all four. Three were expired less than two years, and so could be revived with checks, this fourth one requires a petition.
- 15) Specifically, I corresponded with our current outside patent counsel Kane Kessler PC (who is preparing the petition that this Declaration accompanies) on May 2, 2012 (Exhibit F) to obtain a cost estimate for revival of the patent. Then the internal Safariland decision process on whether to undertake this process was commenced, and a decision was made on or about June 5, 2012 to proceed. I contacted outside counsel with this decision. Then over the time period of June 6, 2012 to today I worked with outside counsel to put together this Declaration and get it on file as part of the Petition. This took a while because Safariland was (since January, 2012) and still is in the process of being sold from its current owner (BAE Systems Inc.) and much of my

time and of the time of IP personnel at Kane Kessler was being devoted to this sale work, due diligence, etc.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2012
(date)

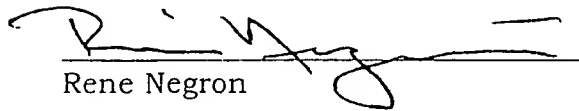

Rene Negron

EXHIBIT A



US006349667B1

(12) **United States Patent**
Rogers et al.

(10) Patent No.: **US 6,349,667 B1**
(45) Date of Patent: **Feb. 26, 2002**

(54) **LOCATION MARKER**

(76) Inventors: **Richard J. Rogers**, 7540 E. Harbor Dr., Tucson, AZ (US) 85715; **Bradley F. Rogers**, 4932 E. Ventana Ridge Pl., Tucson, AZ (US) 85750

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: 09/407,651

(22) Filed: **Sep. 28, 1999**

(51) Int. Cl.⁷ **E01F 9/19; G09F 17/00**

(52) U.S. Cl. **116/209; 116/173; 116/63 L; 116/63 P**

(58) Field of Search **116/209, 173, 116/63 C, 28 R, 63 P, 63 R; 248/512, 513; 40/591, 592, 600, 606, 607, 612, 618; 404/6, 9, 10, 12, 14**

(56) **References Cited**

U.S. PATENT DOCUMENTS

232,461 A * 9/1880 Coolbaugh 116/173
3,192,889 A * 7/1965 Crudgington 116/63 C

3,905,324 A * 9/1975 English 116/63 P
4,019,271 A * 4/1977 Latimer 116/63 P
4,269,534 A * 5/1981 Ryan 40/607
4,275,535 A * 6/1981 Stalzer 116/209
4,645,168 A * 2/1987 Beard 404/10
4,799,448 A * 1/1989 Junker 116/63 P
4,910,902 A * 3/1990 Anderson 40/607
5,044,200 A * 9/1991 Dailey et al. 40/607
5,089,803 A * 2/1992 Bohn 116/28 R
5,269,251 A * 12/1993 Freeman 116/63 C
5,375,554 A * 12/1994 Yen 116/63 P
5,377,944 A * 1/1995 Getsinger 248/512
5,483,917 A * 1/1996 Walker 116/63 P
5,888,016 A * 3/1999 Ahn 116/63 C

* cited by examiner

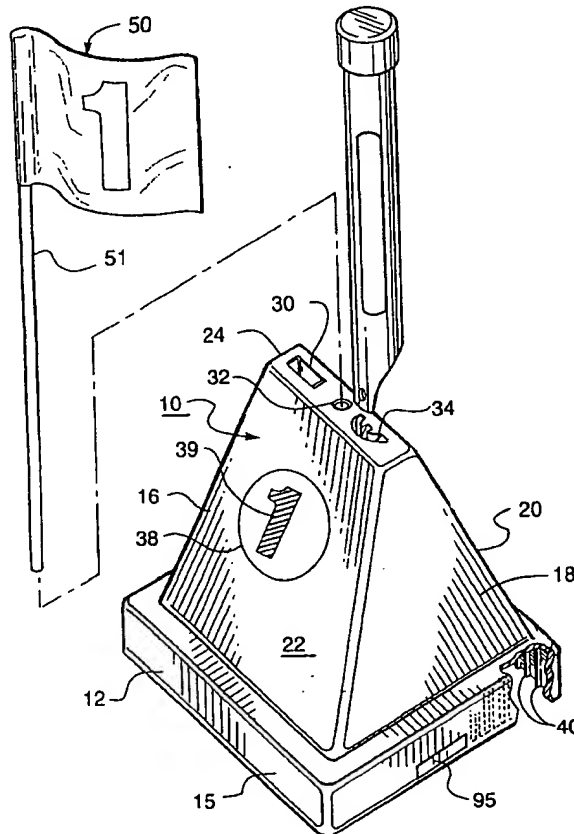
Primary Examiner—Andrew H. Hirshfeld

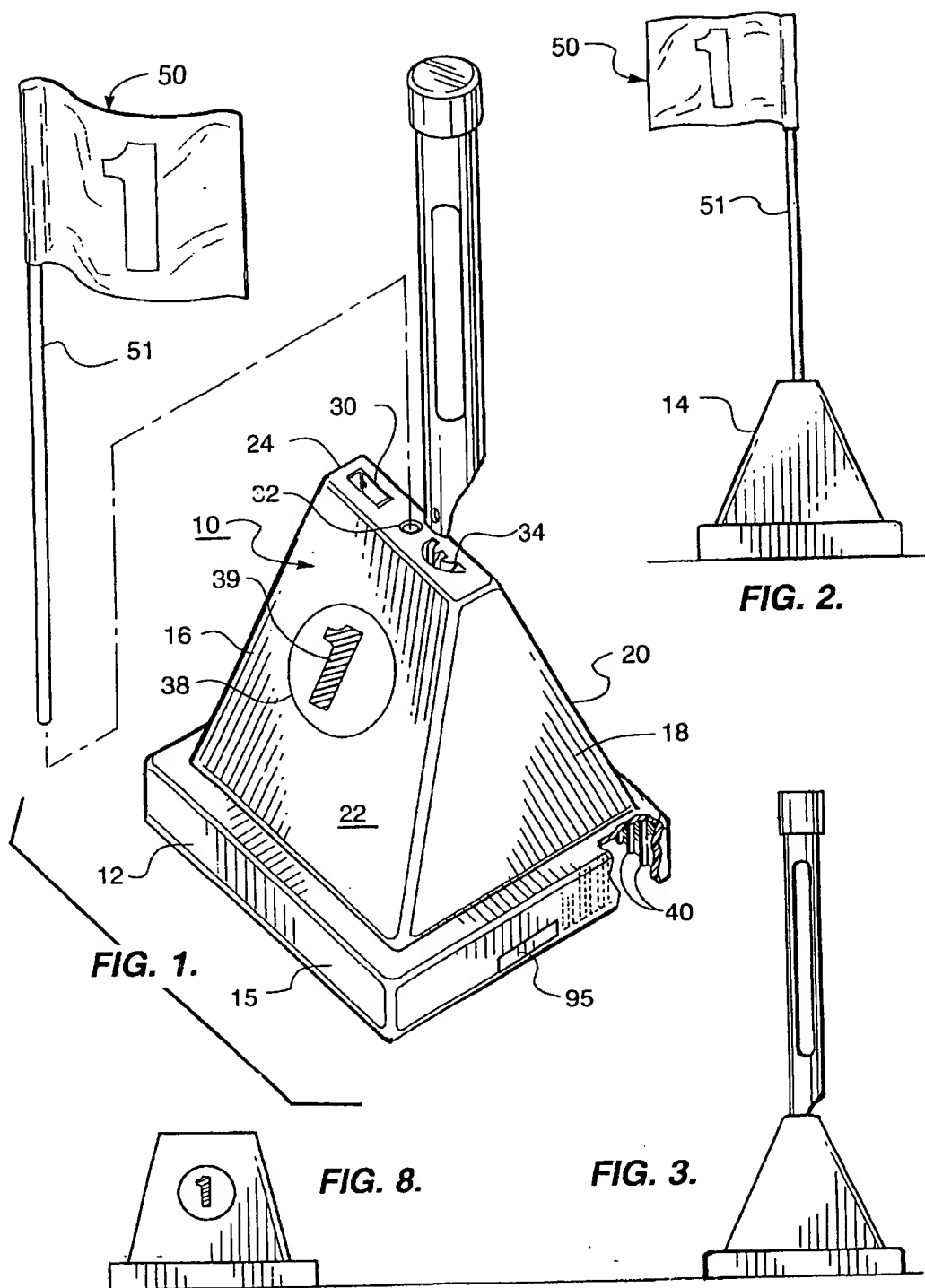
(74) *Attorney, Agent, or Firm*—Gregory J. Nelson

(57) **ABSTRACT**

A location marker having an upwardly converging body having one or more receptacles at the upper end which are configured to removably support chemical luminescent flares, flags or other warning devices. The device may be used by motorists, at crime scenes or even as boundary markers for sporting events.

7 Claims, 3 Drawing Sheets





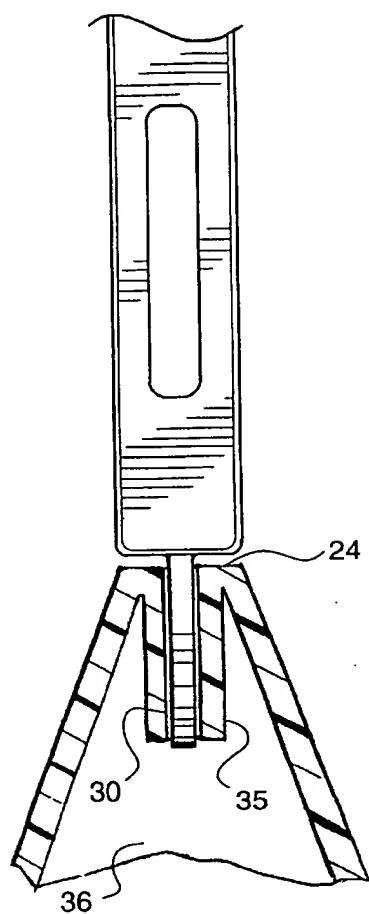


FIG. 5.

FIG. 4.

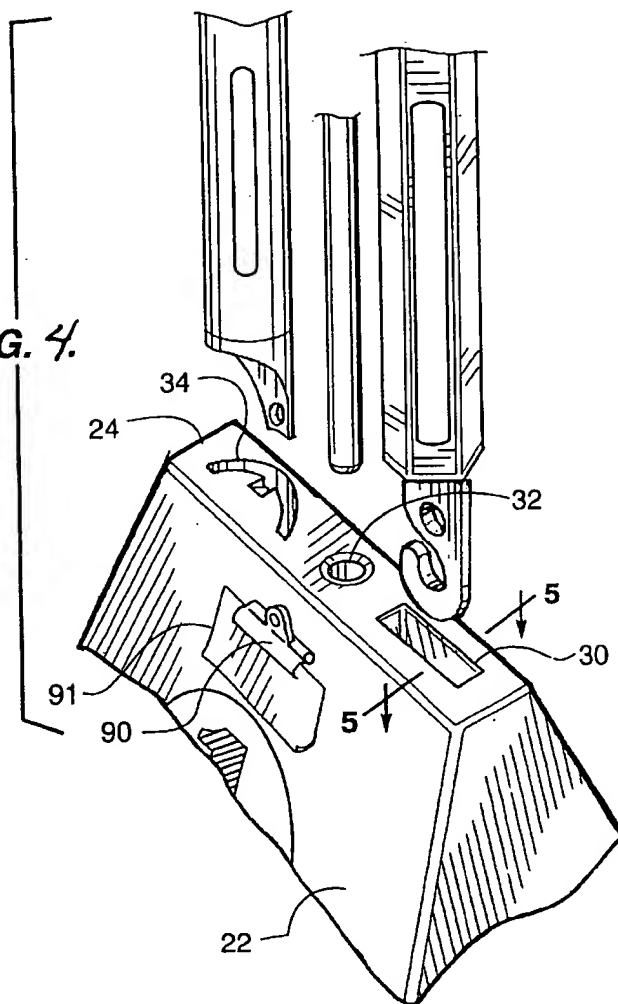


FIG. 6.

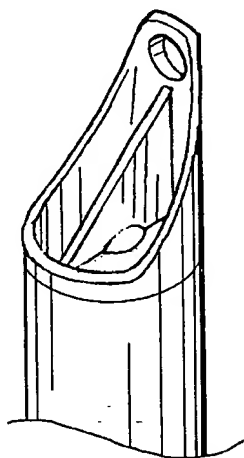
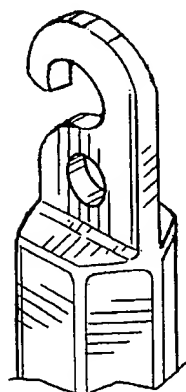
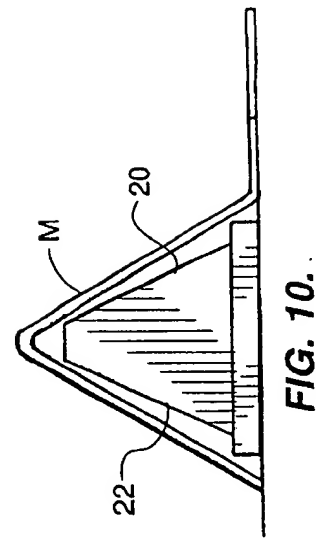
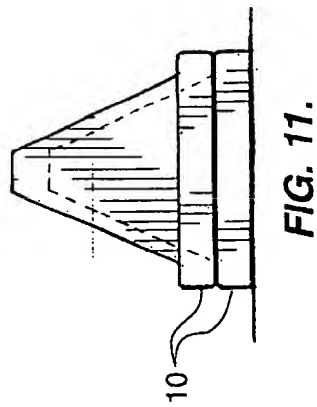
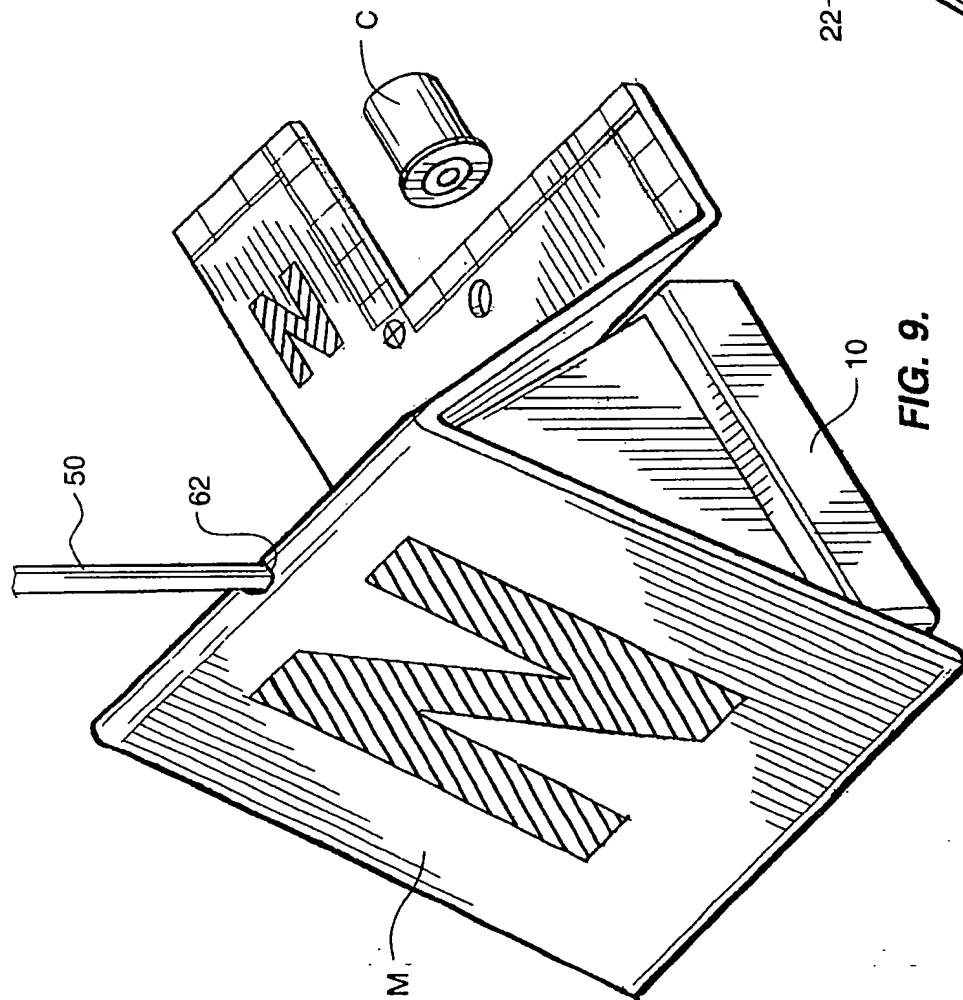


FIG. 7.





LOCATION MARKER

FIELD OF THE INVENTION

The present invention relates to a marker and more particularly relates to a location marker which is freestanding and may be used alone or with additional warning or cautionary devices at crime scenes, sporting events or as a traffic control or warning device.

BACKGROUND OF THE INVENTION

Freestanding marker devices are used in connection with various activities and situations. For example, at sporting events, particularly those such as little league activities, playing field boundaries are often marked with devices such as conventional traffic cones which are normally used to temporarily mark traffic lanes and restrictions. Conventional traffic cones due to their size are often unwieldy, difficult to store in a location such as the trunk of a vehicle and are expensive.

Markers are also used in emergency situations. Motorists often carry markers such as reflectorized panels or flares in the event of a mechanical problem or if a flat tire occurs. Safe practice dictates that the motorist place markers a prescribed distance on either side of the vehicle to warn traffic of a disabled vehicle.

Another situation in which markers are utilized is in connection with identifying evidence at a crime scene by law enforcement investigators or forensic personnel. The proper handling and identification of crime scene evidence is extremely important both to the investigative procedures and to provide the foundation for subsequent admissibility of evidence at trial. Accordingly, recently markers for use at crime scenes and as evidence ID markers have been developed and one such marker is the subject of U.S. Pat. No. 5,787,616 entitled "Evidence Marker". This patent shows a marker for placement adjacent an evidence item at a crime scene which marker has upstanding panels connected to form a freestanding unit. A base panel extends from the lower edge of one of the upstanding panels and is imprinted with reference indicia such as suitable reference scales and a photographic target. The surfaces of the panels are imprinted with indicia such as numerals or letters. Markers as shown in the '616 patent are provided for use by individuals such as law enforcement personnel in kits containing multiple sequentially imprinted markers.

Other freestanding markers or signs can be found in the prior art and the following are representative of these.

U.S. Pat. No. 1,943,295 shows a three-legged advertising frame and paper weight made from metal stock. The surfaces of the three projecting faces are provided with desired lettering or advertising.

U.S. Pat. No. 4,182,063 discloses a foldable sign for a motorist which may be collapsed in accordion fashion and which may be unfolded to display the desired message.

U.S. Pat. No. 4,270,291 discloses a sign construction which has a panel securable to a window. Message bearing panels are hinged to the upper panel to allow the user to select and display the appropriate sign.

U.S. Pat. No. 4,541,190 shows a foldable, collapsible traffic display sign. The device has three rectangular panels which are connected by two folding hinges. Each of the display carries an appropriate warning such as the word HELP, STOP or the like.

U.S. Pat. No. 4,977,697 shows a traffic barrier which is a unitary panel having a plurality of folds to permit the device

to be placed in an A-frame configuration displaying appropriate message panels.

U.S. Pat. No. 5,056,520 shows a self-standing placard which has a message on its front surface. A curved fastener on the back of the placard cooperates with a stiff spacing member to support the placard.

U.S. Pat. No. 4,173,086 shows a sign structure which includes a pole member and means for mounting the pole in an upright position. A sign panel is mounted on the upper portion of the pole. The sign panel is removable.

U.S. Pat. No. 3,371,647 shows an athletic field marker for football fields and the like comprising a plastic, pliable, flexible post of foam rubber like material such as polyethylene foam having an impervious cover such as vinyl. A rubber base plate is bonded to the lower end of the post and has a plug insertable in a socket in the ground.

U.S. Pat. No. 5,269,251 shows a traffic control system which is useable with signs, flags, rope, tape and light sticks. The patent discloses adapters which attach to the top of a standard cone and may be employed to secure the information sign to the adapter and cone.

Thus, the prior art includes various markers, signs or flag devices which are for display. Generally, with the exception of the evidence marker shown in the '616 patent, these devices require some sort of special mounting, must be erected, unfolded or assembled at the time of display and generally are limited to a specific application such as a field marker or for displaying a sign.

BRIEF DESCRIPTION OF THE INVENTION

Briefly, the present invention provides a marker which is a freestanding integral unit having a base which supports an upwardly converging body. The body may be in the form of a truncated pyramid or cone having an upper end. The upper end has one or more receptacles which receptacles define openings of various shapes such as circular, arcuate, rectangular or the like. The openings are spaced apart so that various types of markers or warning devices may be inserted into the openings and supported in a display position. For example, the circular opening may receive the staff or pole of a small flag. The arcuate and rectangular openings are configured so as to receive the tab extending from the base of flares such as chemical luminescent flares such as those manufactured by American Cyanamid Company and sold under the trademark Cyalume® Light Stick. Preferably, the marker is molded as an integral structure from a suitable durable plastic material. The markers are compact and similarly configured so that they may be nestably stacked for convenient storage.

The body of the marker provides a display surface on which identification indicia such as a letter or numeral may be applied. Also, a reflectorized patch of material such as that sold by 3-M under the trademark SCOTCH LITE® or that sold by Reflexite Corporation under the trademark Reflexite® may be applied for increased visibility and enhanced photographability at a location such as a crime scene. A clip may be attached to the display surface for attachment of a note or card. The base may include one or more magnets so that the marker may be secured to a metal surface such as the roof or hood of a vehicle.

In the preferred embodiment, the body of the marker of the present invention is in the form of a truncated pyramid so that the marker can be used in conjunction with crime scene evidence markers such as those described in U.S. Pat. No. 5,787,616. The evidence marker of the '616 patent can be positioned over the body of the marker of the present invention for added resistance to inadvertent dislocation.

BRIEF DESCRIPTION OF THE DRAWINGS

The above and other objects and advantages of the present invention will be more fully understood and appreciated from the following description, claims and drawings in which:

FIG. 1 is a perspective view of the marker of the present invention shown used in conjunction with a flag and a light stick;

FIG. 2 is a side view showing the marker supporting a flag;

FIG. 3 is a side view showing the marker supporting a flare;

FIG. 4 is a detailed perspective view of the upper end of the marker showing the lower end of a flag and flares;

FIG. 5 is a detailed sectional view of the marker of the invention.

FIGS. 6 and 7 show the lower ends of representative flares that may be supported by the marker;

FIG. 8 is a side view of another embodiment of the marker having a conical body;

FIG. 9 is a perspective view showing the marker of the present invention used in conjunction with an evidence marker of the type shown and described in U.S. Pat. No. 5,787,616;

FIG. 10 is a side view of the marker and an evidence marker as shown in FIG. 9; and

FIG. 11 shows several markers in a stacked, nested position.

DETAILED DESCRIPTION OF THE DRAWINGS

Turning to FIGS. 1 to 7, a preferred embodiment of the marker of the present invention is shown and is generally designated by the numeral 10. The marker is a unitary structure having a base 12 which is shown as being generally rectangular having side wall 15. The base 12 supports an upwardly converging body 14 which is shown as having opposite planar sides 16 and 18, rear wall 20 and front wall 22. The side walls, front wall and rear wall converge at upper end 24 which may be a generally planar horizontally disposed surface or may be slightly arcuate. The body 12 as shown is generally in the form of a truncated pyramid but may be other configurations such as a truncated cone or the like as seen in FIG. 8. Preferably the front and rear walls are angularly disposed with respect to the horizontal at an angle of approximately 30 to 45 degrees.

The outer surfaces of walls 20 and 22 may carry appropriate identification indicia 39 such as numerals or letters. Generally the markers are provided in sets with each marker in a set bearing a different number, letter or combination of letters or numbers for convenience of identification. The numeral "1" is shown in FIG. 1 and is representative.

A plurality of receptacles 30, 32 and 34 are provided in the upper surface 24. Receptacle 34 is shown as having a generally arcuate shape. Similarly, depending receptacle 32 is generally circular. Receptacle 30 is shown as an elongate, rectangular opening. As will be explained, the receptacles are intended to temporarily secure or mount warning devices such as flare or flags and may be various shapes in accordance with the shape of the base or stem of the device to be attached. The receptacles 30, 32 and 34 each have a downwardly depending wall 35 which extends into the hollow interior 36 of the base to provide support for the article.

The marker 10 is manufactured from suitable material. It is preferred the marker be manufactured from a suitably

durable and environmentally resistant material such as a plastic such as polyvinyl chloride, polystyrene, EVA or polyurethane. The markers are fabricated as integral free-standing units by manufacturing techniques such as injection molding. The markers may be provided in any suitable color or colors, preferably highly visible colors such as those designated "day glow" colors. Reflective material may be provided as described for enhanced or increased visibility. In FIG. 1, a circular patch of reflective material 38 is affixed to wall 22. Indicia 39, such as a numeral or letter, is also applied to a wall surface. For increased strength, ribs 40 may be provided around the structure such as around the interior periphery of the base.

In use, the markers 10 will normally be provided to the user in sets which can be easily stored and stacked in a nested condition as best seen in FIG. 11. When the markers are to be used, such as in connection with sporting activities where field boundaries are to be marked or delineated, the markers are appropriately positioned, as for example at the corners of the playing area. To further provide an indication of the boundaries, a flag such as a flag 50 may be inserted into one of the appropriate receptacles in the top surface of the marker as seen in FIGS. 1 and 2. Flag 50 has a standard which is in the form of a small diameter pole or rod 51 which is insertable within the receptacle 32. Thus, when the flag is inserted into the base, the flag due to its height provides increased visibility and will also provide numerical identification.

The marker according to the present invention may also be used as a traffic warning and safety device. Motorists carrying the markers may position the marker for display in the event of a problem such as a flat tire or mechanical breakdown in order to warn passing motorists and to attract the attention of those who may render assistance such as highway patrol officers. The markers 10 are placed a safe distance in the front and rear of the disabled vehicle. The motorist would be provided a number of the markers 10 in a kit form along with flags such as flag 50 which can be inserted into the receptacles on the top 24 to provide increased visibility.

If the motorist is disabled during periods of darkness or low light, flares may also be inserted into the marker. Flares, preferably nonflammable light sticks such as the type sold under the trademark Cyalume® would be carried by the motorist. These devices are activated by bending them sufficiently so as to intermix the chemical contents resulting in a chemical luminescence. The base of these types of flares carry a stem or projection which generally is either semi-circular or rectangular in cross section and may be inserted as appropriate into one of the receptacles 30 or 34. Once inserted, the flares are maintained in a highly visible, elevated position to serve as cautionary warning to passing motorists.

The marker 10 of the present invention may also be used at a crime scene to mark evidence. The marker is positioned on a horizontal surface adjacent an item such as an item of evidence which may be a shell casing, a blood spot or the like. As indicated above, the markers are provided in sets which are preferably sequentially marked with numerals or letters. The markers may be placed adjacent an evidence item, so the resulting photograph of the marker and evidence item will identify the specific item of evidence. When the investigation at the crime scene is concluded, the investigator may collect the various markers 10 that have been distributed and set about the area and recover them for re-use in subsequent investigations stacking them as seen in FIG. 11. The configuration of the markers make them easily

stackable and nestable so they may be conveniently stored for re-use in an evidence kit or in a vehicle storage area.

The marker of the present invention may also be modified as shown in FIG. 4 by the inclusion of a clip 90 secured near the top edge of one or both of the surfaces 20 or 22. The clip is a spring clip of conventional design which can be manually opened to accept one or more sheets 91 of writing material. Thus, the clip can be used to position the writing material on the surface and appropriate notes or markings can be placed thereon, for example by an investigating police officer or forensic investigator.

A permanent magnet such as magnet 95 may be incorporated into the base 15 of the marker 10 as seen in FIG. 1. The magnet facilitates placement on a metal surface such as the top or hood of a vehicle for identification purposes if, for example, the marker is used to identify bullet holes in a vehicle.

The marker of the present invention may be used in conjunction with the evidence marker shown in U.S. Pat. No. 5,787,616 as seen in FIGS. 9 and 10 in which it is located next to a shell casing "C". Accordingly, the marker 10 of the present invention is manufactured having dimensions and with the angularity of faces 20 and 22 such that the evidence marker "M" of the '616 patent having an inverted V-shaped, unitary, freestanding configuration can be positioned over the marker 10 of the present invention. In this way, the evidence marker "M", of the type shown in the '616 patent, is additionally secured against displacement or dislodgement due to weather conditions with the marker of the present invention providing anchoring. The evidence marker "M" may be provided with an aperture 62 which allows a flag 50 to be inserted into the marker 10.

It will be obvious to those skilled in the art to make various changes, alterations and modifications to the structure, arrangement, proportion, elements, materials and components used in the practice of the marker of the present invention. To the extent such changes, alterations and modifications do not depart from the spirit and scope of the appended claims. They are intended to be encompassed therein.

We claim:

1. A location marker kit for use as a warning or cautionary device, said marker kit comprising:

- (a) a hollow body having a base and a generally upwardly converging wall extending to a top surface, said body being nestable with other marker bodies of the same type and positionable against V-shaped evidence markers;
- (b) said top surface defining a plurality of receptacles, each of said receptacle having a different geometric shape;
- (c) a flag pole having a flag at an upper end thereof, said flag pole having a lower end with a shape corresponding to the geometric shape of a first one of said receptacles, wherein said flag pole is insertable into said first receptacle to maintain said flag pole in a position extending upwardly from said hollow body; and
- (d) a flare having a lower end with a shape corresponding to the geometric shape of a second one of said receptacles, wherein said flare is insertable into said second receptacle to maintain said flare in a position extending upwardly from said hollow body.

2. The location marker kit of claim 1 wherein said hollow body includes clip means.

3. The location marker kit of claim 1 wherein said base includes a magnet.

4. The location marker kit of claim 1 wherein said hollow body is generally pyramidal.

5. The location marker kit of claim 1 wherein said hollow body is conical.

6. The location marker kit of claim 1 wherein said hollow body is a high visibility color.

7. The location marker kit of claim 1 further including identifying indicia on said hollow body.

* * * * *

EXHIBIT B



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Assignments on the Web > Patent Query**Patent Assignment Abstract of Title**

NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 7

Patent #: 6349667 **Issue Dt:** 02/26/2002 **Application #:** 09407651 **Filing Dt:** 09/28/1999

Inventors: RICHARD J. ROGERS, BRADLEY F. ROGERS

Title: LOCATION MARKER

Assignment: 1

Reel/Frame: 012581/0579

Recorded: 02/07/2002

Pages: 3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: ROGERS, RICHARD J.

Exec Dt: 10/25/2001

Assignee: R & P ENTERPRISES D/B/A EVI-PAQ

P.O. BOX 18276

TUCSON, ARIZONA 85731

Correspondent: NELSON & ROEDIGER

GREGORY J. NELSON

3333 E. CAMELBACK ROAD, SUITE 212

PHOENIX, AZ 85018

Assignment: 2

Reel/Frame: 014186/0292

Recorded: 06/19/2003

Pages: 3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: R&P ENTERPRISES, INC. D/B/A EVI-PAQ, INC. AN ARIZONA CORP.

Exec Dt: 04/23/2003

Assignee: ARMOR FORENSICS HOLDINGS INC.

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JACKSON, FLORIDA 32250

Correspondent: NELSON & ROEDIGER

GREGORY J. NELSON

3333 E. CAMELBACK ROAD

SUITE 212

PHOENIX, AZ 85018

Assignment: 3

Reel/Frame: 014446/0034

Recorded: 03/19/2004

Pages: 10

Conveyance: SECURITY AGREEMENT

Assignor: ARMOR HOLDINGS FORENSICS, INC.

Exec Dt: 08/12/2003

Assignee: BANK OF AMERICA, N.A., AS ADMINISTRATIVE AGENT

231 S. LASALLE STREET

MAIL CODE: IL1-231-08-30

CHICAGO, ILLINOIS 60604

Correspondent: KENNEDY COVINGTON LOBDELL, ET AL.

MICHAEL A. TOBIN

214 NORTH TRYON STREET

HEARST TOWER, 47TH FLOOR

CHARLOTTE, NC 28202

Assignment: 4**Reel/Frame:** 017766/0628**Recorded:** 06/13/2006**Pages:** 8**Conveyance:** RELEASE BY SECURED PARTY (SEE DOCUMENT FOR DETAILS).**Assignor:** BANK OF AMERICA, NA, AS ADMINISTRATIVE AGENT**Exec Dt:** 05/05/2006**Assignee:** ARMOR HOLDINGS FORENSICS, INC.

1350 AVENUE OF THE AMERICAS

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Correspondent: SUSAN S. KAPLAN

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NEW YORK, NY 10019

Assignment: 5**Reel/Frame:** 018463/0791**Recorded:** 11/02/2006**Pages:** 6**Conveyance:** NOTICE OF GRANT OF SECURITY INTEREST**Assignor:** ARMOR HOLDINGS FORENSICS, L.L.C.**Exec Dt:** 05/25/2006**Assignee:** WACHOVIA BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT

201 SOUTH COLLEGE STREET

CP-8

CHARLOTTE, NORTH CAROLINA 28288

Correspondent: MOORE & VAN ALLEN PLLC

430 DAVIS DRIVE

SUITE 500

MORRISVILLE, NC 27560

Assignment: 6**Reel/Frame:** 019781/0572**Recorded:** 09/06/2007**Pages:** 6**Conveyance:** TERMINATION AND RELEASE**Assignor:** WACHOVIA, N.A., AS ADMINISTRATIVE AGENT**Exec Dt:** 07/31/2007**Assignee:** ARMOR HOLDINGS FORENSICS, L.L.C.

13386 INTERNATIONAL PARKWAY

JACKSONVILLE, FLORIDA 32218

Correspondent: IP RESEARCH PLUS, INC.

21 TADCASTER CIRCLE

ATTN: PENELOPE J.A. AGODOA

WALDORF, MD 20602

Assignment: 7**Reel/Frame:** 022127/0163**Recorded:** 01/20/2009**Pages:** 9**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** ARMOR HOLDINGS FORENSICS, L.L.C.**Exec Dt:** 12/31/2008**Assignee:** SAFARILAND, LLC

13386 INTERNATIONAL PARKWAY

JACKSONVILLE, FLORIDA 32218

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1350 AVENUE OF THE AMERICAS
KANE KESSLER, P.C.
NEW YORK, NY 10019

Search Results as of: 07/05/2012 01:29 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.3.1
Web interface last modified: Jan 26, 2012 v.2.3.1

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EXHIBIT C

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United States
Patent and
Trademark Office

Patent Bibliographic Data				07/05/2012 01:21 PM													
Patent Number:	6349667		Application Number:	09407651													
Issue Date:	02/26/2002		Filing Date:	09/28/1999													
Title:	LOCATION MARKER																
Status:	Expired for non-payment on: 02/26/2010			Entity:	Large												
Window Opens:	02/26/2009	Surcharge Date:	08/27/2009	Expiration:	02/26/2010												
Fee Amt Due:	\$0.00	Surchg Amt Due:	\$0.00	Total Amt Due:	\$0.00												
Fee Code:																	
Surcharge Fee Code:																	
Most recent events (up to 7):	<table border="1"> <tr> <td>02/26/2010</td> <td>Patent Expired for Failure to Pay Maintenance Fees.</td> </tr> <tr> <td>10/05/2009</td> <td>Maintenance Fee Reminder Mailed.</td> </tr> <tr> <td>09/06/2005</td> <td>Refund - Payment of Maintenance Fee, 4th Yr, Small Entity.</td> </tr> <tr> <td>09/06/2005</td> <td>Pat Hldr no Longer Claims Small Ent Stat</td> </tr> <tr> <td>08/26/2005</td> <td>Payment of Maintenance Fee, 4th Year, Large Entity.</td> </tr> <tr> <td colspan="2">--- End of Maintenance History ---</td> </tr> </table>					02/26/2010	Patent Expired for Failure to Pay Maintenance Fees.	10/05/2009	Maintenance Fee Reminder Mailed.	09/06/2005	Refund - Payment of Maintenance Fee, 4th Yr, Small Entity.	09/06/2005	Pat Hldr no Longer Claims Small Ent Stat	08/26/2005	Payment of Maintenance Fee, 4th Year, Large Entity.	--- End of Maintenance History ---	
02/26/2010	Patent Expired for Failure to Pay Maintenance Fees.																
10/05/2009	Maintenance Fee Reminder Mailed.																
09/06/2005	Refund - Payment of Maintenance Fee, 4th Yr, Small Entity.																
09/06/2005	Pat Hldr no Longer Claims Small Ent Stat																
08/26/2005	Payment of Maintenance Fee, 4th Year, Large Entity.																
--- End of Maintenance History ---																	
Address for fee purposes:	Gregory J. Nelson Nelson & Roediger 3333 E. Camelback Rd Ste 212 PHOENIX AZ 85006																
NOTE: All USPTO fees are subject to change. If you are making a payment by mail or fax, please visit this link or contact the Maintenance Fee Branch (571-272-6500) to confirm the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.																	
<input type="button" value="Run Another Query"/>																	

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EXHIBIT D

From: Stephanie [mailto:stephanie@nelson-roediger.com]
Sent: Monday, June 04, 2007 5:34 PM
To: Leslie Carzoli
Cc: greg@nelson-roediger.com
Subject: ARMOR PATENTS
Importance: High

Dear Leslie:

We note that the Serengeti system has rejected our invoice for handling the maintenance fees for U.S. Patent Nos. 5,915,852 and 6,618,969.

Since we do not do any substantive legal work for Armor, and only handle these several matters, we believe it would be more efficient for Armor to attend to payment of the maintenance fees.

The time involved in properly submitting invoices, maintaining docket records and sending reminders exceeds fees we can justify for these services.

For your records, the following is a list of the "Evidence / Location Marker" patents and maintenance fee due dates:

U.S. Patent No. 5,787,616 – March 4, 2010 – 3rd or 11 ½ Year Maintenance Fees Due
U.S. Patent No. 5,915,852 - June 29, 2007 – 2nd or 8th Year Maintenance Fees Due (Surcharge period)
U.S. Patent No. 6,349,667 – August 26, 2009 – 2nd or 7 ½ Year Maintenance Fees Due
U.S. Patent No. 6,618,969 – September 16, 2007 – 1st or 4th Year Maintenance Fees Due (Surcharge period)

The maintenance fees generally increase annually October, so please confirm the correct amount at the time they are paid. The website is www.uspto.gov.

6/11/2007

Please enter these dates in your system as we have removed them from our docket. If you have questions, please call.

Very truly yours,
NELSON & ROEDIGER
Gregory J. Nelson

6/11/2007

EXHIBIT E

Matter Profile - Location Marker Patent 696-P4

Lead Co. Person:	Rene Negron	Lead OC:	N/A - Internal Matter	Days Pending:	2655
Co. File Number:	AHF.A07B.5221	Lead Firm:	N/A - Internal Matter	Total Spending:	--
Matter Type (Template):	Patent Prosecution	Law Type:	Intellectual Property - Patent	Total LF Budget:	\$3,830.00
Abstract/Description:	A location marker having an upwardly converging body having one or more receptacles at the upper end which are configured to removably support chemical luminescent flares, flags or other warning devices. The device may be used by motorists, at crime scenes or even as boundary markers for sporting events.				
Matter Status:	MATTER RESOLVED ON 5/11/2009 BY Robyn Sloan Most Recent Status Report: 6/21/2007 by Irina Kushner - Nelson Roediger will no longer be maintaining this patent or paying maintenance fees.				

View Page as Seen by Other User:

Olson, Jacqueline

View Mode

Company & Setup Information

Full Matter Name: Location marker, US Patent 6,349,667; Roediger 696-P4

Short Matter Name: Location Marker Patent 696-P4

Lead Company Person: Rene Negron

#2 Company Person: Leslie Carzoli

Organizational Unit: BSPG > Specialty Markets > AH Forensics, LLC

Practice Group: IP - Patents

Business Manager: Allen Miller

Company File Number: AHF.A07B.5221

Matter Information

Matter Type (Template): Filings > Patent Prosecution

Substantive Law: Intellectual Property - Patent

Start Date: 2/2/2002

Abstract/Description: A location marker having an upwardly converging body having one or more receptacles at the upper end which are configured to removably support chemical luminescent flares, flags or other warning devices. The device may be used by motorists, at crime scenes or even as boundary markers for sporting events.

Patent Title: Location marker

Key Issues: --

Adverse Firm(s) & Attorney(s): --

Created on 10/3/2005 at 11:43 AM Pacific Time by Kim Gibbons
 Last updated on 5/11/2009 at 8:17 AM Pacific Time by Robyn Sloan

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Country: United States
State: State: --
Patent Type: Utility
Inventor(s): Richard J. Rogers , Tucson, AZ (US)
Owner (record title holder): --
Classes of Goods-Services: --
Patent Attachment:
Application Number: 09/407,651
Filing Date: 9/28/1999
First Use/Disclosure Date: --
Affidavit of Use Filing Date: --
Status: Patented Case
Patent Number: 6,349,667
Issue Date: 2/2/2002
Serial/Reel Number: 014446/0034
Expiration Date: 2/2/2022 - Email Notice: Yes
Timing: 60 days before Expiration Date
Recipients: Person Responsible
Notes/Misc: --
ES Internal Matters/Function: --
ES Internal Matters/Requester name: --
ES Internal Matters/Hours spent on matter: --

Financial Information

Company Cost Estimate: --

Company Revenue Estimate: --

Estimated Date of Resolution: 2/2/2022

Closing Matter Information

Created on 10/3/2005 at 11:43 AM Pacific Time by Kim Gibbons
Last updated on 5/11/2009 at 8:17 AM Pacific Time by Robyn Sloan

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Date Resolved: 5/11/2009

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Number of days to update matter data: *The information in this Matter can no longer be edited.*

Invoice Processing Information

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AP Route: BSPG AP Route

Accounting Code Allocations: BSPG IP | 63105.1000.100.140 | P&L 100%

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EXHIBIT F

Szabo, Paul E.

From: Negron, Rene (US NON-SSA) <Rene.Negron@safariland.com>
Sent: Wednesday, May 02, 2012 11:41 AM
To: Szabo, Paul E.; Bennett, Patricia
Subject: RE: Patents (Forensics)

Importance: High

Thanks guys, I will get back to you.

From: Szabo, Paul E. [mailto:PSzabo@kanekessler.com]
Sent: Wednesday, May 02, 2012 11:30 AM
To: Negron, Rene (US NON-SSA)
Subject: RE: Patents (Forensics)

Three of these four patents can be revived simply by payment of fees. The fourth one, 6,349,667, can't. We would have to do the 'unavoidable' petition process as we did for the McNulty patent – more expensive, and iffy.

Attached are PDF's of the four patents.

Cost would be \$6,550 plus attorney charge for 5,787,616 and for 5,915,852. Cost would be \$4,650 plus attorney charge for 6,618,969.

Paul

From: Negron, Rene (US NON-SSA) [mailto:Rene.Negron@baesystems.com]
Sent: Wednesday, May 02, 2012 10:36 AM
To: Bennett, Patricia
Cc: Szabo, Paul E.
Subject: RE: Patents (Forensics)
Importance: High

Patricia – I figured as much; it appears there was a glitch in the docketing of these dates when the patents transferred in from outside counsel.

Paul – do you have a moment to discuss? Let me know what time works best.

From: Bennett, Patricia [mailto:PBennett@kanekessler.com]
Sent: Wednesday, May 02, 2012 10:32 AM
To: Negron, Rene (US NON-SSA)
Cc: Szabo, Paul E.
Subject: RE: Patents (Forensics)

Hi Rene,

I checked our docket and we **do not** have these listed patents on our docket. According to the USPTO all four patents are expired due to failure to pay maintenance fees.

6,618,969 expired 9/16/11

5,915,852 expired 6/29/11
5,787,616 expired 8/4/10
6,349,667 expired 2/26/10

Please let us know if you have any questions or would like to discuss further.

Thanks,
Patricia

From: Negron, Rene (US NON-SSA) [mailto:Rene.Negron@baesystems.com]
Sent: Tuesday, May 01, 2012 3:48 PM
To: Bennett, Patricia
Cc: Szabo, Paul E.
Subject: Patents (Forensics)

Hi Patricia – please let me know if you have the following patents on your database: 6,618,969; 5,915,852; 5,787,616; and 6,349,667. Best.....Rene

Rene Negron
I.P. Paralegal
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Jacksonville, FL 32218
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Cell: 904-514-0585

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7/13/2012 10:36 AM [Eastern Daylight Time]

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KANE KESSLER P.C. Fax: 212-765-0949 Jul 13 2012 11:18 P.01

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b)) Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,349,067 Application Number: 09/407,651
Issue Date: February 26, 2002 Filing Date: September 28, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.365(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original issue date _____
original application number _____
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____
filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300

July 13, 2012
Date

Paul E. Szabo
Signature

Paul E. Szabo
Typed or printed name of person signing Certificate

(Page 1 of 4)

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND PETS OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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1866
-217-9197
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O:Auto-reply fax to 212 765 0949 COMPANY:

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KANE KESSLER P.C.

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Jul 13 2012 11:19

P.01

Personnel of the owner, who had no docketing program and no experience at paying maintenance fees themselves, were unable to set up payment reminders. Years later, after subsequent personnel changes and two software system changes, the error was finally discovered.

Specifically, the outside law firm, Nelson & Roediger, had prosecuted and obtained this patent, as well as three other patents, for a predecessor company of Safariland, Evi-Paq. (See attached Declaration of Rene Negron, at Paragraph 9.) Evi-Paq was then merged into (or purchased by) Armor Forensics Holdings, which was a company that was an agglomerator of smaller companies in the forensics area. Subsequently, Armor Forensics Holdings was merged into Safariland. (Negron Declaration, Para. 6)

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These facts are evidenced in the attached Declaration of Mr. Rene Negron, the current IP paralegal for the patent owner who discovered the error. Mr. Negron's Declaration shows that the error was uncovered in about April of 2012 (Negron Declaration, Para. 14) and, since then, working diligently with outside counsel (undersigned), this Petition was prepared and filed.

Submitted with this petition are the following fees:

O:Auto-reply fax to 212 765 049 COMPANY:

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US06639667B1

(12) **United States Patent**
Rogers et al.

(10) Patent No.: **US 6,349,667 B1**
(45) Date of Patent: **Feb. 26, 2002**

(54) **LOCATION MARKER**

(76) Inventor: Richard J. Rogers, 7540 E. Harbor Dr., Tucson, AZ (US) 85715; Bradley P. Rogers, 4933 E. Ventana Ridge Pl., Tucson, AZ (US) 85750

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: 09/407,631

(22) Filed: Sep. 28, 1999

(51) Int. Cl. E01F 9/19; G09F 17/00

(52) U.S. Cl. 116/209; 116/173; 116/63 L; 116/63 P

(53) Field of Search: 116/209, 173, 116/63 C, 28 R, 63 P, 63 R; 248/512, 513; 405/591, 592, 600, 606, 607, 612, 618; 404/6, 9, 10, 12, 14

(50) **References Cited**

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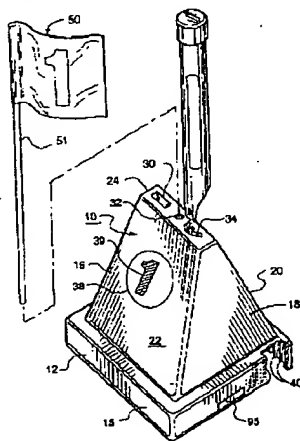
Primary Examiner—Andrew H. Hirschfeld

(74) Attorney, Agent, or Firm—Gregory J. Nelson

(57) **ABSTRACT**

A location marker having an upwardly converging body having one or more receptacles at the upper end which are configured to removably support chemical luminescent fibers, flags or other warning devices. The device may be used by motorists, at crime scenes or even as boundary markers for sporting events.

7 Claims, 3 Drawing Sheets



** Transmit Conf. Report **

P. 1

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US 6,349,667 R1

(31) **United States Patent**
Rogers et al.

(11) Patent No.: **US 6,349,667 R1**
(45) Date of Patent: **Feb. 26, 2002**

(54) **LOCATION MARKER**

(76) Inventors: **Richard J. Rogers, 7540 E. Nelson Dr., Tucson, AZ (US) 85715; Bradley P. Rogers, 10321 E. Ventura Ridge Pl., Tucson, AZ (US) 85750**

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(21) Appl. No. **09/407,651**

(22) Filed: **Sep. 26, 1999**

(51) Int. Cl. **E01F 9/19, G09P 17/00**

(52) U.S. Cl. **116/209; 116/173; 116/63 C; 116/63 P**

(53) Field of Search: **116/209, 173, 116/63 C, 78 R, 67 C, 63 R; 348/512, 513; 47/591, 592, 600, 616, 607, 612, 618; 101/6, 9, 10, 12, 14**

(36) **References Cited****U.S. PATENT DOCUMENTS**

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4,275,155 A * 6/1981 Stalzer 116/63 P
4,645,160 A * 2/1987 Board 404/10
4,799,448 A * 1/1989 Fisher 116/63 P
4,907,907 A * 7/1990 Anderson 40/607
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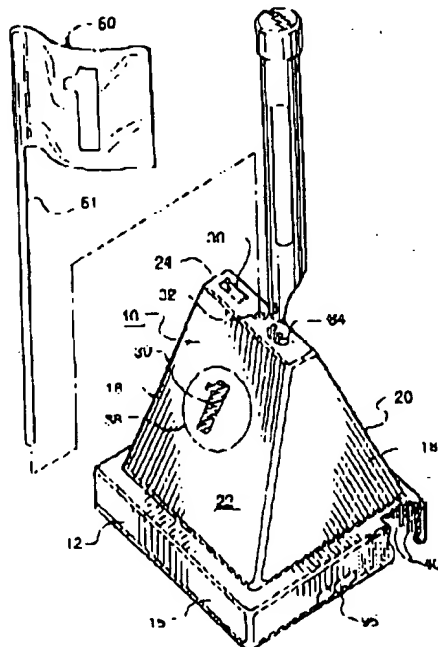
Primary Examiner—Andrew H. Hishelink

(74) Attorney, Agent, or Firm—Gregory T. Nelson

(57) **ABSTRACT**

A location marker having an upwardly converging body having one or more receptacles at the upper end which are configured to removably support chemical luminescent bars, dyes or other marking devices. The device may be used by police, at crime scenes or even at boundary markers for sporting events.

7 Claims, 3 Drawing Sheets



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Personnel of the owner, who had no docketing program and no experience at paying maintenance fees themselves, were unable to set up payment reminders. Years later, after subsequent personnel changes and two software system changes, the error was finally discovered.

Specifically, the outside law firm, Nelson & Roediger, had prosecuted and obtained this patent, as well as three other patents, for a predecessor company of Safariland, Evi-Paq (See attached Declaration of Rene Negron, at Paragraph 9.) Evi-Paq was then merged into (or purchased by) Armor Forensics Holdings, which was a company that was an aggregator of smaller companies in the forensics area. Subsequently, Armor Forensics Holdings was merged into Safariland. (Negron Declaration, Para. 5)

Nelson & Roediger at one point decided it was no longer profitable to handle the maintenance fee work for these four patents, which were the only ones it had for Safariland. (Negron Declaration, Para. 9) So it turned that responsibility over to the company via an email to the company's paralegal, Ms. Leslie Carzoli. (Negron Declaration, Para. 9) Ms. Carzoli did not have an IP docketing program to use. (Negron Declaration, Para. 10) Nelson & Roediger apparently did not contact any attorney at Safariland, and apparently did not seek permission of any kind for this transfer, but rather placed this responsibility, unilaterally, on the paralegal. It gave her some dates that had to be met. No reference was made to how to actually pay the fees, etc. (Negron Declaration, Para. 9)

These facts are evidenced in the attached Declaration of Mr. Rene Negron, the current IP paralegal for the patent owner who discovered the error. Mr. Negron's Declaration shows that the error was uncovered in about April of 2012 (Negron Declaration, Para. 14) and, since then, working diligently with outside counsel (undersigned), this Petition was prepared and filed.

Submitted with this petition are the following fees:

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PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))	Docket Number (Optional)
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P.O. Box 1450
Alexandria VA 22314 1450
Fax: (571) 273-0300

NOTE: If information or assistance is needed in completing this form, please contact Petition Information at (571) 272-3282.

Patent Number: 6,349,667 Application Number: 09/407,651
Issue Date: February 26, 2002 Filing Date: September 28, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) relate associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above identified patent:

☐ is a reissue or original Patent No. _____ original issue date _____
original application number _____
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
filed on _____


CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.9(a))

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(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-0300.

Date: July 13, 2012



Paul E. Szabo
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is guaranteed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. There will vary depending upon the individual case. Any comments on the burden of this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND PAPER OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1 800 PTO 0100 and select option 2.



KANE KESSLER, P.C.
PAUL E. SZABO
1350 AVENUE OF THE AMERICAS
NEW YORK, NY 10019

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July 17, 2012

NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

REGARDING PATENT NUMBER: 6349667

PAYMENT STATUS:

Payment Amount Received: \$ 3,550.00

No charge was applied to your deposit account

Payment Year 7.5 (e.g., 3.5, 7.5, 11.5)

PAYMENT RECEIPT DATE 07/16/2012
(Mailroom Date Stamp)

Your payment was not accepted for the following reason(s):

- ☐ 1. The maintenance fee for the above-identified patent was previously paid on _____.
☐ Information regarding the previous payment is stated in item 8 below.
- ☒ 2. The patent expired on 02/26/2010. See "Patent Expiration" section below.
- ☐ 3. The fee was paid too early. See 37 CFR 1.366(b). Pursuant to 37 CFR 1.362(d), the payment window will open for the above-identified patent on _____.
- ☐ 4. Your payment was not sufficient to cover the maintenance fee and any required surcharge for the aboveidentified patent. An additional amount of \$ _____ is/was required.
- ☐ 5. The above-identified patent was reissued. In accordance with 37 CFR 1.366(d), the reissue patent number and reissue application number must be provided.
- ☐ 6. The payment did not include corresponding patent and application numbers, and was not specially accepted.
- ☐ 7. The above-identified patent is not subject to maintenance fees. No maintenance fees are due on utility patents filed before 12/11/80. No maintenance fees are due on design patents or on plant patents. See 37 CFR 1.362(a) and (b). (The "Resubmitting Maintenance Fee Payment" and "Patent Expiration" sections below do not apply.)
- ☒ 8. Other: Unavoidable petition fee for reinstatement of patent was previously submitted By: Adam M. Cohen

Resubmitting Maintenance Fee Payment

The six (6) month "grace period" for paying the maintenance fee for the aboveidentified patent begins on _____ and ends on _____. In addition to the maintenance fee of \$ _____, a resubmitted payment filed in the USPTO during the 6 month "grace period" is required to include a surcharge of \$ _____. (See "Note" at the bottom of this Notice.)

To avoid patent expiration, the maintenance fee plus any required surcharge must be resubmitted in a manner that rectifies all of the indicated reason(s) for payment non-acceptance and *must be filed on or before the date the 6 month "grace period" ends*. Send by facsimile to the Office of Finance, Maintenance Fee Branch at (571) 273-6500, or by mail to the following address: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450, to the attention of the individual who has signed below.

Patent Expiration

The date the six (6) month "grace period" ends becomes the expiration date of the aboveidentified patent if the required amount for paying the maintenance fee is not filed in the USPTO by that date. See 37 CFR 1.362(g). Expired patents may be reinstated if a petition as set forth in 37 CFR 1.378 is granted. If the above-identified patent has expired and reason number 5 or 6 above is the only reason indicated for payment non-acceptance, it is possible that the payment may be accepted if resubmitted with a petition as set forth in 37 CFR 1.377, rather than 37 CFR 1.378.

If you have any questions regarding this Notice, contact the Office of Finance, Maintenance Fee Branch at (571) 272-6500. Please ask for the individual who has signed below.

Spays
Michael Bangura (571) 272-6365
Printed Name of USPTO Representative

[Signature]
Signature of USPTO Representative

[Signature]
NOTE: All USPTO fees (including patent maintenance fees) are subject to change. If you are making a payment, visit the www.uspto.gov website or contact the Office of Finance to verify the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.

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Personnel of the owner, who had no docketing program and no experience at paying maintenance fees themselves, were unable to set up payment reminders. Years later, after subsequent personnel changes and two software system changes, the error was finally discovered.

Specifically, the outside law firm, Nelson & Roediger, had prosecuted and obtained this patent, as well as three other patents, for a predecessor company of Safariland, Evi-Paq. (See attached Declaration of Rene Negron, at Paragraph 9.) Evi-Paq was then merged into (or purchased by) Armor Forensics Holdings, which was a company that was an agglomerator of smaller companies in the forensics area. Subsequently, Armor Forensics Holdings was merged into Safariland. (Negron Declaration, Para. 6)

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Submitted with this petition are the following fees:

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The maintenance fee in the amount of \$2,850.

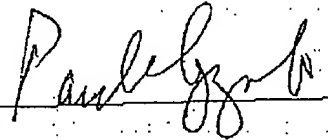
Surcharge in the amount of \$700.

Total of \$3,550.

Please charge any additional fees required (or credit any overpayments) to the undersigned's Deposit Account No. 50-0908.

From these facts, it is clear that reasonable care was taken to ensure that the fee would be paid timely. Under these circumstances, the supposed "failure" to pay the fee was unavoidable; the patent owner's actions meet the standard under 37 CFR 1.378(b) for reinstatement of the patent; and the patent should therefore be reinstated.

Respectfully submitted,



Paul E. Szabo
Reg. No. 30,429
Attorney for Applicant
Kane Kessler, P.C.
1350 Avenue of the Americas
New York, NY 10019
(212) 519-5143

Dated: July 12, 2012

2012 JUL 16 PM 12:07

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In the United States Patent and Trademark Office

Patentee Rogers et al.
Patent No. 6,349,667
Issue Date February 26, 2002
Title Location Marker
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Declaration of Rene Negron

- 1) My name is Rene Negron. I am the IP Paralegal for Safariland LLC ("Safariland").
- 2) As part of my work I oversee the patent maintenance fee work for Safariland's patent portfolio. This work includes working with outside counsel who are handling some of the issued patents, as well as handling some issued patents internally. I am familiar with the requirements of and process for payment of US patent maintenance fees.
- 3) Safariland has no in-house patent attorneys or agents, and all applications are filed and patent obtained by outside counsel. Up until the last few years, when the work was consolidated in Kane Kessler, P.C., as many as a dozen or more firms were used. (Safariland was formed by agglomerating a large number of smaller companies, each of which had

and kept its own outside patent counsel.) Until very recently, outside counsel handled all maintenance fee work for the patents they obtained, including patents obtained for Armor Holdings Forensics and Evi-Paq). This procedure generally worked well.

- 4) One patent of Safariland is US Patent No. 6,349,667 ("the '667 patent", copy attached as Exhibit A), issued February 26, 2002, which is the subject of this petition.
- 5) The '667 patent was originally obtained in 2002 for a company called R & P Enterprises d/b/a EVI-PAQ, by an outside law firm called Nelson & Roediger.
- 6) This company was purchased in 2003 by a predecessor of Safariland, specifically, Armor Holdings Forensics. That company was merged into Safariland as recorded in January 2009 at Reel 022127, frame 0572 (see attached Assignment Record for this patent Exhibit B).
- 7) Nelson & Roediger handled payment for the first USPTO maintenance fee for the '667 patent, which was paid on August 26, 2005. (Exhibit C)
- 8) The second maintenance fee for the '667 patent was due beginning on February 26, 2009, with a grace period until February 26, 2010. This is the fee payment that was missed.
- 9) Previously, however, for a group of four patents, including the '667 patent, the outside law firm (Nelson & Roediger) who had obtained those patents decided it no longer wanted to do the maintenance fee work. See attached email Exhibit D by which the firm unilaterally decided not to do the work any longer. This was in June, 2007, after the first maintenance fee was paid on the '667 patent and before the second one was due.

10) Safariland personnel had never before handled maintenance fees internally, instead relying on outside counsel. In this case, Safariland personnel looked to the only means they had for handling IP-related things at the time, which was a program called Serengeti. This was done by a Ms. Leslie Carzoli who did not have specific IP training and was not employed to work with only IP but rather legal in general. In the end the use of Serengeti turned out to be a mistake, a failure in this case. Serengeti was a time and billing program that was used for handling payment of invoices from vendors including outside counsel. However, Serengeti was not a docketing program, and did not have the capability to compute dates, such as maintenance fee due dates, and was generally not set up to handle such matters.

11) Safariland used this Serengeti program up until about mid-2009, primarily for keeping track of invoices from vendors including outside counsel. Attached as Exhibit E is a printout of the Serengeti record for the '667 patent (the Serengeti database, though no longer used, is still available to me as a read-only program). It appears that when the '667 patent was issued in 2002, the existence of the patent was put into the Serengeti database. The system obviously did not docket the maintenance fee due dates. I believe that this is when the dates were lost. It appears that the only date that was entered was the expiration date of the patent.

12) Safariland later transitioned to another system, more closely geared towards patent record-keeping, KSS TechTrac. Specifically, there was a large data migration from Serengeti to KSS that took place in the time period February 2009 through June 2009. It appears that information on the '667 patent was transferred, but as noted, this information did not include maintenance fee payment dates. The KSS

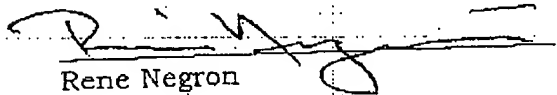
database is gone now, and so no information can today be retrieved from it.

- 13) During this time period Leslie Carzoli left the company, and I started work as IP Paralegal in late 2008. I was the first IP-trained paralegal that Safariland employed, and was the first paralegal who devoted their time solely to IP.
- 14) Then Safariland switched again from KSS to a new database, CPI. There was a large data migration involved, that took place in the time period October 2011 through March 2012 (a few months ago). CPI, a well-known patent annuity and docketing system, pulled the data from KSS. CPI noted this patent (as well as the other three that were received from the Roediger firm) as having no fees due. I checked and found out in April, 2012 that all four patents were expired. I checked with company personnel to see if that had been intended, and found out 'no'. Therefore, so I contacted current outside counsel Kane Kessler, P.C. to instruct them to revive all four. Three were expired less than two years, and so could be revived with checks, this fourth one requires a petition.
- 15) Specifically, I corresponded with our current outside patent counsel Kane Kessler PC (who is preparing the petition that this Declaration accompanies) on May 2, 2012 (Exhibit F) to obtain a cost estimate for revival of the patent. Then the internal Safariland decision process on whether to undertake this process was commenced, and a decision was made on or about June 5, 2012 to proceed. I contacted outside counsel with this decision. Then over the time period of June 6, 2012 to today I worked with outside counsel to put together this Declaration and get it on file as part of the Petition. This took a while because Safariland was (since January, 2012) and still is in the process of being sold from its current owner (BAE Systems Inc.) and much of my

time and of the time of IP personnel at Kane Kessler was being devoted to this sale work, due diligence, etc.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2012
(date)


Rene Negrón

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EXHIBIT A

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